

1-1 By: González of El Paso, et al. H.B. No. 1651  
 1-2 (Senate Sponsor - Alvarado)  
 1-3 (In the Senate - Received from the House April 11, 2019;  
 1-4 March 4, 2019, read first time and referred to Committee on  
 1-5 Criminal Justice; May 9, 2019, reported adversely, with favorable  
 1-6 Committee Substitute by the following vote: Yeas 5, Nays 0;  
 1-7 May 9, 2019, sent to printer.)

1-8 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-9  |     |     |        |     |
| 1-10 | X   |     |        |     |
| 1-11 | X   |     |        |     |
| 1-12 | X   |     |        |     |
| 1-13 |     |     | X      |     |
| 1-14 |     |     | X      |     |
| 1-15 | X   |     |        |     |
| 1-16 | X   |     |        |     |

1-17 COMMITTEE SUBSTITUTE FOR H.B. No. 1651 By: Whitmire

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to the care of pregnant women confined in county jail.  
 1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-22 SECTION 1. Section 511.009(a), Government Code, is amended  
 1-23 to read as follows:  
 1-24 (a) The commission shall:  
 1-25 (1) adopt reasonable rules and procedures  
 1-26 establishing minimum standards for the construction, equipment,  
 1-27 maintenance, and operation of county jails;  
 1-28 (2) adopt reasonable rules and procedures  
 1-29 establishing minimum standards for the custody, care, and treatment  
 1-30 of prisoners;  
 1-31 (3) adopt reasonable rules establishing minimum  
 1-32 standards for the number of jail supervisory personnel and for  
 1-33 programs and services to meet the needs of prisoners;  
 1-34 (4) adopt reasonable rules and procedures  
 1-35 establishing minimum requirements for programs of rehabilitation,  
 1-36 education, and recreation in county jails;  
 1-37 (5) revise, amend, or change rules and procedures if  
 1-38 necessary;  
 1-39 (6) provide to local government officials  
 1-40 consultation on and technical assistance for county jails;  
 1-41 (7) review and comment on plans for the construction  
 1-42 and major modification or renovation of county jails;  
 1-43 (8) require that the sheriff and commissioners of each  
 1-44 county submit to the commission, on a form prescribed by the  
 1-45 commission, an annual report on the conditions in each county jail  
 1-46 within their jurisdiction, including all information necessary to  
 1-47 determine compliance with state law, commission orders, and the  
 1-48 rules adopted under this chapter;  
 1-49 (9) review the reports submitted under Subdivision (8)  
 1-50 and require commission employees to inspect county jails regularly  
 1-51 to ensure compliance with state law, commission orders, and rules  
 1-52 and procedures adopted under this chapter;  
 1-53 (10) adopt a classification system to assist sheriffs  
 1-54 and judges in determining which defendants are low-risk and  
 1-55 consequently suitable participants in a county jail work release  
 1-56 program under Article 42.034, Code of Criminal Procedure;  
 1-57 (11) adopt rules relating to requirements for  
 1-58 segregation of classes of inmates and to capacities for county  
 1-59 jails;  
 1-60 (12) require that the chief jailer of each municipal

2-1 lockup submit to the commission, on a form prescribed by the  
2-2 commission, an annual report of persons under 17 years of age  
2-3 securely detained in the lockup, including all information  
2-4 necessary to determine compliance with state law concerning secure  
2-5 confinement of children in municipal lockups;  
2-6 (13) at least annually determine whether each county  
2-7 jail is in compliance with the rules and procedures adopted under  
2-8 this chapter;  
2-9 (14) require that the sheriff and commissioners court  
2-10 of each county submit to the commission, on a form prescribed by the  
2-11 commission, an annual report of persons under 17 years of age  
2-12 securely detained in the county jail, including all information  
2-13 necessary to determine compliance with state law concerning secure  
2-14 confinement of children in county jails;  
2-15 (15) schedule announced and unannounced inspections  
2-16 of jails under the commission's jurisdiction using the risk  
2-17 assessment plan established under Section 511.0085 to guide the  
2-18 inspections process;  
2-19 (16) adopt a policy for gathering and distributing to  
2-20 jails under the commission's jurisdiction information regarding:  
2-21 (A) common issues concerning jail  
2-22 administration;  
2-23 (B) examples of successful strategies for  
2-24 maintaining compliance with state law and the rules, standards, and  
2-25 procedures of the commission; and  
2-26 (C) solutions to operational challenges for  
2-27 jails;  
2-28 (17) report to the Texas Correctional Office on  
2-29 Offenders with Medical or Mental Impairments on a jail's compliance  
2-30 with Article 16.22, Code of Criminal Procedure;  
2-31 (18) adopt reasonable rules and procedures  
2-32 establishing minimum requirements for a county jail [jails] to:  
2-33 (A) determine if a prisoner is pregnant; [and]  
2-34 (B) ensure that the jail's health services plan  
2-35 addresses medical care, including obstetrical and gynecological  
2-36 care, [and] mental health care, [including] nutritional  
2-37 requirements, and any special housing or work assignment needs for  
2-38 prisoners [persons] who are [confined in the jail and are] known or  
2-39 determined to be pregnant; and  
2-40 (C) identify when a pregnant prisoner is in labor  
2-41 and provide appropriate care to the prisoner, including promptly  
2-42 transporting the prisoner to a local hospital;  
2-43 (19) provide guidelines to sheriffs regarding  
2-44 contracts between a sheriff and another entity for the provision of  
2-45 food services to or the operation of a commissary in a jail under  
2-46 the commission's jurisdiction, including specific provisions  
2-47 regarding conflicts of interest and avoiding the appearance of  
2-48 impropriety;  
2-49 (20) adopt reasonable rules and procedures  
2-50 establishing minimum standards for prisoner visitation that  
2-51 provide each prisoner at a county jail with a minimum of two  
2-52 in-person, noncontact visitation periods per week of at least 20  
2-53 minutes duration each;  
2-54 (21) require the sheriff of each county to:  
2-55 (A) investigate and verify the veteran status of  
2-56 each prisoner by using data made available from the Veterans  
2-57 Reentry Search Service (VRSS) operated by the United States  
2-58 Department of Veterans Affairs or a similar service; and  
2-59 (B) use the data described by Paragraph (A) to  
2-60 assist prisoners who are veterans in applying for federal benefits  
2-61 or compensation for which the prisoners may be eligible under a  
2-62 program administered by the United States Department of Veterans  
2-63 Affairs;  
2-64 (22) adopt reasonable rules and procedures regarding  
2-65 visitation of a prisoner at a county jail by a guardian, as defined  
2-66 by Section 1002.012, Estates Code, that:  
2-67 (A) allow visitation by a guardian to the same  
2-68 extent as the prisoner's next of kin, including placing the  
2-69 guardian on the prisoner's approved visitors list on the guardian's

3-1 request and providing the guardian access to the prisoner during a  
3-2 facility's standard visitation hours if the prisoner is otherwise  
3-3 eligible to receive visitors; and

3-4 (B) require the guardian to provide the sheriff  
3-5 with letters of guardianship issued as provided by Section  
3-6 1106.001, Estates Code, before being allowed to visit the prisoner;  
3-7 and

3-8 (23) adopt reasonable rules and procedures to ensure  
3-9 the safety of prisoners, including rules and procedures that  
3-10 require a county jail to:

3-11 (A) give prisoners the ability to access a mental  
3-12 health professional at the jail through a telemental health service  
3-13 24 hours a day;

3-14 (B) give prisoners the ability to access a health  
3-15 professional at the jail or through a telehealth service 24 hours a  
3-16 day or, if a health professional is unavailable at the jail or  
3-17 through a telehealth service, provide for a prisoner to be  
3-18 transported to access a health professional; and

3-19 (C) if funding is available under Section  
3-20 511.019, install automated electronic sensors or cameras to ensure  
3-21 accurate and timely in-person checks of cells or groups of cells  
3-22 confining at-risk individuals.

3-23 SECTION 2. Chapter 511, Government Code, is amended by  
3-24 adding Sections 511.0104 and 511.0105 to read as follows:

3-25 Sec. 511.0104. RULES REGARDING RESTRAINT OF PREGNANT  
3-26 PRISONER. (a) The commission shall adopt reasonable rules and  
3-27 procedures regarding the use of any type of restraints to control or  
3-28 restrict the movement of a prisoner, including a limb or other part  
3-29 of the prisoner, who is confirmed to be pregnant or who gave birth  
3-30 in the preceding 12 weeks.

3-31 (b) The rules and procedures must:  
3-32 (1) prohibit the use of restraints on a prisoner  
3-33 described by Subsection (a) for the duration of the pregnancy and  
3-34 for a period of not less than 12 weeks after the prisoner gives  
3-35 birth unless:

3-36 (A) supervisory personnel determines:  
3-37 (i) the use of restraints is necessary to  
3-38 prevent an immediate and credible risk that the prisoner will  
3-39 attempt to escape; or  
3-40 (ii) the prisoner poses an immediate and  
3-41 serious threat to the health and safety of the prisoner, staff, or  
3-42 any member of the public; or

3-43 (B) a health care professional responsible for  
3-44 the health and safety of the prisoner determines that the use of  
3-45 restraints is appropriate for the health and safety of the prisoner  
3-46 and, if applicable, the unborn child of the prisoner;  
3-47 (2) require jail staff that uses restraints as  
3-48 permitted under Subdivision (1) to use the least restrictive  
3-49 restraints necessary to prevent escape or to ensure health and  
3-50 safety; and

3-51 (3) notwithstanding Subdivision (1), require jail  
3-52 staff to, at the request of a health care professional responsible  
3-53 for the health and safety of the prisoner, refrain from using  
3-54 restraints on the prisoner or to remove the restraints.

3-55 Sec. 511.0105. REPORT REGARDING RESTRAINT OF PREGNANT  
3-56 PRISONER. (a) Not later than February 1 of each year, each county  
3-57 jail shall submit to the commission a report regarding the jail's  
3-58 use, during the preceding calendar year, of any type of restraints  
3-59 to control or restrict the movement of a prisoner, including a limb  
3-60 or other part of the prisoner, who is confirmed to be pregnant or  
3-61 who gave birth in the preceding 12 weeks.

3-62 (b) The report must include the circumstances of each use of  
3-63 restraints, including:  
3-64 (1) the specific type of restraints used;  
3-65 (2) what activity the prisoner was engaged in  
3-66 immediately before being restrained;  
3-67 (3) whether the prisoner was restrained during or  
3-68 after delivery;  
3-69 (4) whether the prisoner was restrained while being

4-1 transported to a local hospital; and  
4-2 (5) the reasons supporting the determination to use  
4-3 the restraints, a description of the process by which the  
4-4 determination was made, and the name and title of the person or  
4-5 persons making the determination.

4-6 (c) The commission shall prescribe a form for the report  
4-7 required for this section.

4-8 SECTION 3. Not later than December 1, 2019, the Commission  
4-9 on Jail Standards shall:

4-10 (1) adopt the rules and procedures required by Section  
4-11 511.009(a)(18), Government Code, as amended by this Act, and  
4-12 Section 511.0104, Government Code, as added by this Act; and

4-13 (2) prescribe the form required by Section 511.0105,  
4-14 Government Code, as added by this Act.

4-15 SECTION 4. This Act takes effect September 1, 2019.

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